

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

NOEL AGOHA,

Petitioner,

v.

CIVIL ACTION NO. 2:25-cv-00309

CHRISTOPHER MASON,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636. On June 20, 2025, Magistrate Judge Tinsley submitted his Proposed Findings & Recommendations, [ECF No. 9] (“PF&R”), and recommended that the court dismiss Petitioner’s petition for failure to prosecute under Federal Rule of Civil Procedure 41(b). Petitioner filed an objection.

A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This court is not, however, required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

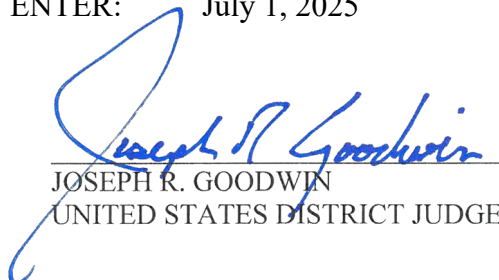
Here, Magistrate Judge Tinsley recommended dismissal because the Petitioner failed to either (1) pay the \$5.00 filing fee or (2) file an Application to Proceed Without Prepayment of Fees and Costs, as directed by the Magistrate Judge's Order and Notice. The Petitioner has since filed Objections and Amended Objections asserting that he made multiple attempts to pay the filing fee. [ECF Nos. 26, 30] (providing copies of checks mailed to the court and indicating a willingness to resolve his case on the merits). The docket also shows that the court received the Petitioner's filing fee on June 24, 2025, [ECF No. 10].

For these reasons, it is clear that the Petitioner has attempted to and successfully complied with the Magistrate Judge's Order and Notice. Therefore, his objection is **SUSTAINED**, and the court **DECLINES to adopt** the PF&R.

The matter is further **REFERRED** to the Magistrate in accordance with the Standing Order regarding assignments and referrals of civil actions, [ECF No. 7].

The court **DIRECTS** the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party.

ENTER: July 1, 2025



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE